

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CIVIL REVISION APPLICATION No 1277 of 1994

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

CHAIRMAN GEB & 1

Versus

MM LAKHA

Appearance:

MR TUSHAR MEHTA for Petitioner

None present for Respondent

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 03/12/98

ORAL JUDGEMENT

#. This civil revision application on behalf of defendants-petitioners arises from the order dated 20th October 1994 of the Incharge, 2nd Extra Assistant Judge, Vadodara, below ex.10, in Civil Appeal No.247 of 1994, filed by the plaintiff-respondent against the order of the learned trial court below ex.5.

#. The I/c. Extra Assistant Judge has stayed the order

of the learned trial court till 12:00 noon of 21.10.94. The matter has been taken up for hearing on 21.10.94 by the regular Extra Assistant Judge on 21.10.94. The learned 2nd Extra Assistant Judge, Vadodara, passed the order on ex.10, under which the order dated 20.10.94 was suspended till 28.10.94. From the order dated 21.10.94, I find that the counsel for the Board has not attended the court despite of the fact that the court has called him right from 11:35 a.m. to 12:10 noon. In these circumstances, the learned first appellate court passed the order to maintain status-quo.

#. This civil revision application has been filed by the Board before this Court on 11th November 1994 and it has come up for admission before this court on 24.11.94. Though this matter has been admitted, interim relief has not been granted by this Court. I fail to see any justification of the Board to file this civil revision application before this Court. It was only a matter of grant of temporary injunction in appeal and instead of approaching this court against that order, either the Board should have taken steps to pursue the first appellate court to vacate that order or to hear the matter finally at an early date. Such civil revision application is ill-advised. The Board is having its legal Officers and I have been informed that the Legal Department of the Board is under the direct control of a judicial officer of the Gujarat State Higher Judicial Services. I am constrained to observe that the Legal Department in the Board is there to advise it properly so that unnecessary people's money is not wasted in unavoidable and uncalled for litigations. It is not necessary for the Board to file revision applications in each and every case and to waste people's money. In case the matter would have been taken properly, then instead of advising to file revision application, steps would have been taken to get the Appeal itself decided at an early date. Moreover, this revision application is only for the sake of not allowing any of the orders of the court below to go unchallenged. Stay has not been granted by this court and I do not find anything on the record of this civil revision application that at any time steps have been taken by the Board to see that this Civil Revision Application is listed for admission at an early date. No purpose has been served by filing of this civil revision application before this court except that the Board has to incur heavy expenses of litigation.

#. The learned counsel for the petitioner is not in a position, on being asked by the Court, whether the Appeal is decided or not so far. In ordinary course, it is

possible that by now, the Appeal itself would have been disposed of. Though it is not for this court to do advisory work but it is expected of the Legal Department of the Board that before filing litigations in this court they will examine the matters minutely and only where they feel that it is a fit case for filing appeal, revision, etc. then only, they have to advise for filing of the same and they should have been bold enough to give advise and where they feel that it is not a fit case for filing revision etc., they should advise accordingly. They are not supposed to work under the thumbs of the officers of the Board and act according to their wishes or desire.

#. The learned counsel for the petitioner at this stage, prays for withdrawal of this civil revision application and he further states that all these observations made by the Court may be recalled. If the civil revision application has been filed only with the object to withdraw it at one point of time, then it goes without saying that it is a matter absolutely ill-advised and a sheer wastage of people's money and further a wastage of valuable time of the Court. Unwarranted and avoidable litigation is being brought before this Court. Leaving apart the question of wastage of public money, it also unnecessarily consumes Court's valuable time. Following of such course heavily costs to the people and even if a single minute of the Court is wasted in doing an unproductive work, then it is at the cost of people. That is not the only end but in deciding such a frivolous matter whatever time is wasted otherwise could have been utilized in doing some purposeful and productive work.

#. This matter can also be viewed from another angle. In case indiscriminately litigation is filed by the Board then it heavily costs to the other side also. In such case ultimately the Court may also award costs against the Board. So it will result in double cost to the Board. The first component of this cost is expenses incurred by it in filing of the revision application and second component is cost to be paid to the other side. It is fortunate for the Board that nobody is present on behalf of the respondent, otherwise, it was a fit case where the Board should have been saddled with the costs of this litigation to the other side.

#. In the result, this civil revision application fails and the same is dismissed.

(S.K.Keshote, J.)

[sunil]